IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 1ST JANUARY 2007 / 11TH POUSHA, 1928

Crl.MC.No. 3868 of 2006()

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CC.1435/2006 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, ATTINGAL

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PETITIONER: 1ST ACCUSED:

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BABU, S/O. RAMAKRISHNAN,
ARAPPURA VEEDU, MANCHADIMOODU, AZHOOR VILLAGE,
CHIRAYINKIL.

BY ADV. SRI.M.R.ANANDAKUTTAN
SMT.M.HEMALATHA
SRI.R.S.MADHU
SRI.MAHESH ANANDAKUTTAN

RESPONDENTS: STATE & COMPLAINANT:

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1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

2. ANIRUDHAN, S/O. VISWANATHAN,
`SUMANGALI, NEAR GOVT. L.P.S., AZHOOR,
KURAKKADA P.O., CHIRAYINKIL.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R. BASANT, J.**

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**CRL.M.C.NO. 3868 OF 2006**

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**Dated this the 1st day of January, 2007**

**ORDER**

This Crl.M.C. is to quash a prosecution initiated against the petitioner, inter alia, under Secs.143, 447 and 427 read with Sec.149 of the IPC.

2. Cognizance has been taken by the learned Magistrate on the basis of a final report submitted by the police. The learned counsel for the petitioner submits that the petitioner/ the 1st accused is absolutely innocent. Even if the entire allegations and materials filed along with the final report were accepted, there is nothing to indicate the complicity of the petitioner. The learned counsel specifically points out that there is no allegation even that the petitioner was personally present at the scene of the crime. There is no allegation that there was any criminal conspiracy also. There is a civil dispute between the petitioner and the de facto complainant and only on account of animosity arising from such civil dispute, the petitioner has been falsely and unnecessarily implicated and arrayed as the 1st accused. This, in short, is

the contention raised. As the offences alleged are all summons offences, the petitioner cannot claim discharge under Sec.239 of the Cr.P.C. and it is hence that the petitioner has come to this Court with the prayer to quash the proceedings initiated against him.

3. I have been taken through the averments in the First Information Statement and also the Case Diary statements of all the witnesses. The learned Public Prosecutor was directed, in these circumstances, to file a statement enumerating the specific circumstances/pieces of materials relied on by the prosecution to raise allegations against the petitioner/the 1st accused. No such statement has been filed even today. The learned Public Prosecutor submits that the prosecution concedes that there is nothing to indicate that the petitioner was personally present anywhere near the crime; nor is any allegation raised of conspiracy. In these circumstances, it is conceded that as against the 1st accused, no specific material has been placed before court by the Investigating Officer in the final report submitted by him.

4. I am satisfied, in these circumstances, that this Crl.M.C.

can be allowed and the proceedings in C.C.No.1435/06 in so far as it relates to the petitioner can be quashed.

5. This Crl.M.C. is, accordingly, allowed to the above extent.

**Sd/-**

**(R. BASANT, JUDGE)**

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P.S. to Judge